
HOUSE BILL 2748

State of Washington

54th Legislature

1996 Regular Session

By Representatives Mastin, Reams, Silver and Johnson

Read first time 01/18/96. Referred to Committee on Government Operations.

1 AN ACT Relating to regulatory reform; amending RCW 34.05.328,
2 34.05.330, 34.05.230, 43.110.030, 34.05.542, 34.05.566, and 42.17.310;
3 adding new sections to chapter 34.05 RCW; adding a new section to
4 chapter 4.84 RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 34.05.328 and 1995 c 403 s 201 are each amended to
7 read as follows:

8 (1) Before adopting a rule described in subsection (5) of this
9 section, an agency shall:

10 (a) Clearly state in detail the general goals and specific
11 objectives of the statute that the rule implements;

12 (b) Determine that the rule is needed to achieve the general goals
13 and specific objectives stated under (a) of this subsection, and
14 analyze alternatives to rule making and the consequences of not
15 adopting the rule;

16 (c) Determine that the probable benefits of the rule are greater
17 than its probable costs, taking into account both the qualitative and
18 quantitative benefits and costs and the specific directives of the
19 statute being implemented;

1 (d) Determine, after considering alternative versions of the rule
2 and the analysis required under (b) and (c) of this subsection, that
3 the rule being adopted is the least burdensome alternative for those
4 required to comply with it that will achieve the general goals and
5 specific objectives stated under (a) of this subsection;

6 (e) Determine that the rule does not require those to whom it
7 applies to take an action that violates requirements of another federal
8 or state law;

9 (f) Determine that the rule does not impose more stringent
10 performance requirements on private entities than on public entities
11 unless required to do so by federal or state law;

12 (g) Determine if the rule differs from any federal regulation or
13 statute applicable to the same activity or subject matter and, if so,
14 determine that the difference is justified by the following:

15 (i) A state statute that explicitly allows the agency to differ
16 from federal standards; or

17 (ii) Substantial evidence that the difference is necessary to
18 achieve the general goals and specific objectives stated under (a) of
19 this subsection; and

20 (h) Coordinate the substance of the rule, to the maximum extent
21 practicable, with other federal, state, and local laws applicable to
22 the same activity or subject matter.

23 (2) In making its determinations pursuant to subsection (1) (b)
24 through (g) of this section, the agency shall place in the rule-making
25 file documentation of sufficient quantity and quality so as to persuade
26 a reasonable person that the determinations are justified.

27 (3) Before adopting rules described in subsection (5) of this
28 section, an agency shall place in the rule-making file a rule
29 implementation plan for rules filed under each adopting order. The
30 plan shall describe how the agency intends to:

31 (a) Implement and enforce the rule, including a description of the
32 resources the agency intends to use;

33 (b) Inform and educate affected persons about the rule;

34 (c) Promote and assist voluntary compliance; and

35 (d) Evaluate whether the rule achieves the purpose for which it was
36 adopted, including, to the maximum extent practicable, the use of
37 interim milestones to assess progress and the use of objectively
38 measurable outcomes.

1 (4) After adopting a rule described in subsection (5) of this
2 section regulating the same activity or subject matter as another
3 provision of federal or state law, an agency shall do all of the
4 following:

5 (a) Provide to the business assistance center a list citing by
6 reference the other federal and state laws that regulate the same
7 activity or subject matter;

8 (b) Coordinate implementation and enforcement of the rule with the
9 other federal and state entities regulating the same activity or
10 subject matter by making every effort to do one or more of the
11 following:

12 (i) Deferring to the other entity;

13 (ii) Designating a lead agency; or

14 (iii) Entering into an agreement with the other entities specifying
15 how the agency and entities will coordinate implementation and
16 enforcement.

17 If the agency is unable to comply with this subsection (4)(b), the
18 agency shall report to the legislature pursuant to (c) of this
19 subsection;

20 (c) Report to the joint administrative rules review committee:

21 (i) The existence of any overlap or duplication of other federal or
22 state laws, any differences from federal law, and any known overlap,
23 duplication, or conflict with local laws; and

24 (ii) Make recommendations for any legislation that may be necessary
25 to eliminate or mitigate any adverse effects of such overlap,
26 duplication, or difference.

27 (5)(a) Except as provided in (b) of this subsection, this section
28 applies to:

29 (i) Significant legislative rules of the departments of ecology,
30 labor and industries, health, revenue, and natural resources, the
31 employment security department, the forest practices board, the office
32 of the insurance commissioner, and to the legislative rules of the
33 department of fish and wildlife implementing chapter 75.20 RCW; and

34 (ii) Any rule of any agency, if this section is voluntarily made
35 applicable to the rule by the agency, or is made applicable to the rule
36 by a majority vote of the joint administrative rules review committee
37 within (~~forty-five~~) sixty days of receiving the notice of proposed
38 rule making under RCW 34.05.320.

39 (b) This section does not apply to:

1 (i) Emergency rules adopted under RCW 34.05.350;

2 (ii) Rules relating only to internal governmental operations that
3 are not subject to violation by a nongovernment party;

4 (iii) Rules adopting or incorporating by reference without material
5 change federal statutes or regulations, Washington state statutes,
6 rules of other Washington state agencies, shoreline master programs
7 other than those programs governing shorelines of state-wide
8 significance, or, as referenced by Washington state law, national
9 consensus codes that generally establish industry standards, if the
10 material adopted or incorporated regulates the same subject matter and
11 conduct as the adopting or incorporating rule;

12 (iv) Rules that only correct typographical errors, make address or
13 name changes, or clarify language of a rule without changing its
14 effect;

15 (v) Rules the content of which is explicitly and specifically
16 dictated by statute; or

17 (vi) Rules that set or adjust fees or rates pursuant to legislative
18 standards.

19 (c) For purposes of this subsection:

20 (i) A "procedural rule" is a rule that adopts, amends, or repeals
21 (A) any procedure, practice, or requirement relating to any agency
22 hearings; (B) any filing or related process requirement for making
23 application to an agency for a license or permit; or (C) any policy
24 statement pertaining to the consistent internal operations of an
25 agency.

26 (ii) An "interpretive rule" is a rule, the violation of which does
27 not subject a person to a penalty or sanction, that sets forth the
28 agency's interpretation of statutory provisions it administers.

29 (iii) A "significant legislative rule" is a rule other than a
30 procedural or interpretive rule that (A) adopts substantive provisions
31 of law pursuant to delegated legislative authority, the violation of
32 which subjects a violator of such rule to a penalty or sanction; (B)
33 establishes, alters, or revokes any qualification or standard for the
34 issuance, suspension, or revocation of a license or permit; or (C)
35 adopts a new, or makes significant amendments to, a policy or
36 regulatory program.

37 (d) In the notice of proposed rule making under RCW 34.05.320, an
38 agency shall state whether this section applies to the proposed rule

1 pursuant to (a)(i) of this subsection, or if the agency will apply this
2 section voluntarily.

3 (6) By January 31, 1996, and by January 31st of each even-numbered
4 year thereafter, the office of financial management, after consulting
5 with state agencies, counties, and cities, and business, labor, and
6 environmental organizations, shall report to the governor and the
7 legislature regarding the effects of this section on the regulatory
8 system in this state. The report shall document:

9 (a) The rules proposed to which this section applied and to the
10 extent possible, how compliance with this section affected the
11 substance of the rule, if any, that the agency ultimately adopted;

12 (b) The costs incurred by state agencies in complying with this
13 section;

14 (c) Any legal action maintained based upon the alleged failure of
15 any agency to comply with this section, the costs to the state of such
16 action, and the result;

17 (d) The extent to which this section has adversely affected the
18 capacity of agencies to fulfill their legislatively prescribed mission;

19 (e) The extent to which this section has improved the acceptability
20 of state rules to those regulated; and

21 (f) Any other information considered by the office of financial
22 management to be useful in evaluating the effect of this section.

23 (7) As used in this section "local laws" means ordinances adopted
24 by cities, towns, and counties.

25 NEW SECTION. Sec. 2. A new section is added to chapter 34.05 RCW
26 to read as follows:

27 RCW 34.05.322 does not apply to: The commissioner of public lands,
28 the department of social and health services, the department of
29 ecology, the department of agriculture, the department of health, the
30 department of revenue, the department of licensing, the employment
31 security department, and the fish and wildlife commission.

32 NEW SECTION. Sec. 3. A new section is added to chapter 34.05 RCW
33 under the subchapter heading "Part III" to read as follows:

34 After December 31, 2000, the following agencies may not rely solely
35 on a statute's statement of intent or purpose or the enabling
36 provisions of the statute establishing the agency, or any combination
37 of such provisions, for the agency's statutory authority to have

1 adopted a rule challenged after December 31, 2000: The commissioner of
2 public lands, the department of social and health services, the
3 department of ecology, the department of agriculture, the department of
4 health, the department of revenue, the department of licensing, the
5 department of labor and industries, the employment security department,
6 the forest practices board, the fish and wildlife commission, and the
7 office of the insurance commissioner.

8 **Sec. 4.** RCW 34.05.330 and 1995 c 403 s 703 are each amended to
9 read as follows:

10 (1) Any person may petition an agency requesting the adoption,
11 amendment, or repeal of any rule. The office of financial management
12 shall prescribe by rule the format for such petitions and the procedure
13 for their submission, consideration, and disposition and provide a
14 standard form that may be used to petition any agency. Within sixty
15 days after submission of a petition, the agency shall either (a) deny
16 the petition in writing, stating (i) its reasons for the denial,
17 specifically addressing the concerns raised by the petitioner, and,
18 where appropriate, (ii) the alternative means by which it will address
19 the concerns raised by the petitioner, or (b) initiate rule-making
20 proceedings in accordance with this chapter.

21 (2) If an agency denies a petition to repeal or amend a rule
22 submitted under subsection (1) of this section, the petitioner, within
23 thirty days of the denial, may appeal the denial to the governor. The
24 governor shall immediately file notice of the appeal with the code
25 reviser for publication in the Washington state register. Within
26 forty-five days after receiving the appeal, the governor shall either
27 (a) deny the petition in writing, stating (i) his or her reasons for
28 the denial, specifically addressing the concerns raised by the
29 petitioner, and, (ii) where appropriate, the alternative means by which
30 he or she will address the concerns raised by the petitioner; (b) for
31 agencies listed in RCW 43.17.010, direct the agency to initiate rule-
32 making proceedings in accordance with this chapter; or (c) for agencies
33 not listed in RCW 43.17.010, recommend that the agency initiate rule-
34 making proceedings in accordance with this chapter. The governor's
35 response to the appeal shall be published in the Washington state
36 register and copies shall be submitted to the chief clerk of the house
37 of representatives and the secretary of the senate.

1 (3) If an agency denies a petition to adopt, repeal, or amend a
2 rule submitted under subsection (1) of this section, the petitioner may
3 petition the committee to review the agency's denial.

4 (4) In petitioning for repeal or amendment of a rule under this
5 section, a person is encouraged to address, among other concerns:

6 (a) Whether the rule is authorized;

7 (b) Whether the rule is needed;

8 (c) Whether the rule conflicts with or duplicates other federal,
9 state, or local laws;

10 (d) Whether alternatives to the rule exist that will serve the same
11 purpose at less cost;

12 (e) Whether the rule applies differently to public and private
13 entities;

14 (f) Whether the rule serves the purposes for which it was adopted;

15 (g) Whether the costs imposed by the rule are unreasonable;

16 (h) Whether the rule is clearly and simply stated; and

17 (i) Whether the rule is different than a federal law applicable to
18 the same activity or subject matter without adequate justification.

19 ~~((+4))~~ (5) The business assistance center and the office of
20 financial management shall coordinate efforts among agencies to inform
21 the public about the existence of this rules review process.

22 ~~((+5))~~ (6) The office of financial management shall initiate the
23 rule making required by subsection (1) of this section by September 1,
24 1995.

25 **Sec. 5.** RCW 34.05.230 and 1995 c 403 s 702 are each amended to
26 read as follows:

27 (1) If the adoption of rules is not feasible and practicable, an
28 agency is encouraged to advise the public of its current opinions,
29 approaches, and likely courses of action by means of interpretive or
30 policy statements. Current interpretive and policy statements are
31 advisory only. An agency is encouraged to convert long-standing
32 interpretive and policy statements into rules.

33 (2) A person may petition an agency requesting the adoption of a
34 rule to supersede one or more specified principles of law or policy
35 used by the agency as part of the basis for its decisions in particular
36 cases.

37 (3) The agency shall:

38 (a) Notify the committee of the request; and

1 (b) Adopt such a rule as soon as feasible and to the extent
2 practicable, and in accordance with the requirements of this chapter.

3 (4) A person may petition an agency requesting the conversion of
4 interpretive and policy statements into rules. Upon submission, the
5 agency shall notify the joint administrative rules review committee of
6 the petition. Within sixty days after submission of a petition, the
7 agency shall either deny the petition in writing, stating its reasons
8 for the denial, or initiate rule-making proceedings in accordance with
9 this chapter.

10 ~~((+3))~~ (5) Each agency shall maintain a roster of interested
11 persons, consisting of persons who have requested in writing to be
12 notified of all interpretive and policy statements issued by that
13 agency. Each agency shall update the roster once each year and
14 eliminate persons who do not indicate a desire to continue on the
15 roster. Whenever an agency issues an interpretive or policy statement,
16 it shall send a copy of the statement to each person listed on the
17 roster. The agency may charge a nominal fee to the interested person
18 for this service.

19 **Sec. 6.** RCW 43.110.030 and 1990 c 104 s 2 are each amended to read
20 as follows:

21 The municipal research council shall contract for the provision of
22 municipal research and services to cities and towns. Contracts for
23 municipal research and services shall be made with state agencies,
24 educational institutions, or private consulting firms, that in the
25 judgment of council members are qualified to provide such research and
26 services. Contracts for staff support may be made with state agencies,
27 educational institutions, or private consulting firms that in the
28 judgment of the council members are qualified to provide such support.

29 Municipal research and services shall consist of: (1) Studying and
30 researching municipal government and issues relating to municipal
31 government; (2) acquiring, preparing, and distributing publications
32 related to municipal government and issues relating to municipal
33 government; (3) providing educational conferences relating to municipal
34 government and issues relating to municipal government; ~~((and))~~ (4)
35 furnishing legal, technical, consultative, and field services to cities
36 and towns concerning planning, public health, utility services, fire
37 protection, law enforcement, public works, and other issues relating to
38 municipal government; and (5) providing an annual list by general

1 subject matter of available local ordinances to the business assistance
2 center.

3 The activities, programs, and services of the municipal research
4 council shall be carried on, and all expenditures shall be made, in
5 cooperation with the cities and towns of the state acting through the
6 board of directors of the association of Washington cities, which is
7 recognized as their official agency or instrumentality.

8 **Sec. 7.** RCW 34.05.542 and 1988 c 288 s 509 are each amended to
9 read as follows:

10 Subject to other requirements of this chapter or of another
11 statute:

12 (1) A petition for judicial review of a rule may be filed at any
13 time, except as limited by RCW 34.05.375.

14 (2) A petition for judicial review of an order shall be filed with
15 the court and served on the agency, the hearings board if one is
16 involved, the office of the attorney general, and all parties of record
17 within thirty days after service of the final order.

18 (3) A petition for judicial review of agency action other than the
19 adoption of a rule or the entry of an order is not timely unless filed
20 with the court and served on the agency, the office of the attorney
21 general, and all other parties of record within thirty days after the
22 agency action, but the time is extended during any period that the
23 petitioner did not know and was under no duty to discover or could not
24 reasonably have discovered that the agency had taken the action or that
25 the agency action had a sufficient effect to confer standing upon the
26 petitioner to obtain judicial review under this chapter.

27 (4) Service of the petition on the agency shall be by delivery of
28 a copy of the petition to the office of the director, or other chief
29 administrative officer or chairperson of the agency, at the principal
30 office of the agency. Service of a copy by mail upon the other parties
31 of record, the hearings board if one is involved, and the office of the
32 attorney general shall be deemed complete upon deposit in the United
33 States mail, as evidenced by the postmark.

34 (5) Failure to timely serve a petition on the office of the
35 attorney general or the hearings board, if one is involved, is not
36 grounds for dismissal of the petition; provided that service so
37 provided does not impair the orderly conduct of judicial process;
38 provided further that the service so provided as to the hearing board

1 only applies to judicial proceedings pending on the effective date of
2 this act.

3 (6) For the purposes of this section only, "hearings board" means
4 an independent, quasi-judicial, multiperson entity whose sole
5 responsibility is to determine on review in a contested matter the
6 validity or invalidity of an order issued by another governmental
7 entity.

8 **Sec. 8.** RCW 34.05.566 and 1989 c 175 s 26 are each amended to read
9 as follows:

10 (1) Within thirty days after service of the petition for judicial
11 review, or within further time allowed by the court or by other
12 provision of law, the agency shall transmit to the court the original
13 or a certified copy of the agency record for judicial review of the
14 agency action. The record shall consist of any agency documents
15 expressing the agency action, other documents identified by the agency
16 as having been considered by it before its action and used as a basis
17 for its action, and any other material described in this chapter as the
18 agency record for the type of agency action at issue, subject to the
19 provisions of this section.

20 (2) If part of the record has been preserved without a transcript,
21 the agency shall prepare a transcript for inclusion in the record
22 transmitted to the court, except for portions that the parties
23 stipulate to omit in accordance with subsection (4) of this section.

24 (3) The agency may charge a nonindigent petitioner with the
25 reasonable costs of preparing any necessary copies and transcripts for
26 transmittal to the court. A failure by the petitioner to pay any of
27 this cost to the agency relieves the agency from the responsibility for
28 preparation of the record and transmittal to the court.

29 (4) The record may be shortened, summarized, or organized
30 temporarily or, by stipulation of all parties, permanently.

31 (5) The court may tax the cost of preparing transcripts and copies
32 of the record:

33 (a) Against a party who unreasonably refuses to stipulate to
34 shorten, summarize, or organize the record; or

35 (b) In accordance with any provision of law.

36 (6) Additions to the record pursuant to RCW 34.05.562 must be made
37 as ordered by the court.

1 (7) The court may require or permit subsequent corrections or
2 additions to the record.

3 (8) For the purposes of this section, agency includes hearings
4 board as defined in RCW 34.05.542(6).

5 **Sec. 9.** RCW 42.17.310 and 1995 c 267 s 6 are each amended to read
6 as follows:

7 (1) The following are exempt from public inspection and copying:

8 (a) Personal information in any files maintained for students in
9 public schools, patients or clients of public institutions or public
10 health agencies, or welfare recipients.

11 (b) Personal information in files maintained for employees,
12 appointees, or elected officials of any public agency to the extent
13 that disclosure would violate their right to privacy.

14 (c) Information required of any taxpayer in connection with the
15 assessment or collection of any tax if the disclosure of the
16 information to other persons would (i) be prohibited to such persons by
17 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result
18 in unfair competitive disadvantage to the taxpayer.

19 (d) Specific intelligence information and specific investigative
20 records compiled by investigative, law enforcement, and penology
21 agencies, and state agencies vested with the responsibility to
22 discipline members of any profession, the nondisclosure of which is
23 essential to effective law enforcement or for the protection of any
24 person's right to privacy.

25 (e) Information revealing the identity of persons who are witnesses
26 to or victims of crime or who file complaints with investigative, law
27 enforcement, or penology agencies, other than the public disclosure
28 commission, if disclosure would endanger any person's life, physical
29 safety, or property. If at the time a complaint is filed the
30 complainant, victim or witness indicates a desire for disclosure or
31 nondisclosure, such desire shall govern. However, all complaints filed
32 with the public disclosure commission about any elected official or
33 candidate for public office must be made in writing and signed by the
34 complainant under oath.

35 (f) Test questions, scoring keys, and other examination data used
36 to administer a license, employment, or academic examination.

37 (g) Except as provided by chapter 8.26 RCW, the contents of real
38 estate appraisals, made for or by any agency relative to the

1 acquisition or sale of property, until the project or prospective sale
2 is abandoned or until such time as all of the property has been
3 acquired or the property to which the sale appraisal relates is sold,
4 but in no event shall disclosure be denied for more than three years
5 after the appraisal.

6 (h) Valuable formulae, designs, drawings, and research data
7 obtained by any agency within five years of the request for disclosure
8 when disclosure would produce private gain and public loss.

9 (i) Preliminary drafts, notes, recommendations, and intra-agency
10 memorandums in which opinions are expressed or policies formulated or
11 recommended except that a specific record shall not be exempt when
12 publicly cited by an agency in connection with any agency action.

13 (j) Records which are relevant to a controversy to which an agency
14 is a party but which records would not be available to another party
15 under the rules of pretrial discovery for causes pending in the
16 superior courts.

17 (k) Records, maps, or other information identifying the location of
18 archaeological sites in order to avoid the looting or depredation of
19 such sites.

20 (l) Any library record, the primary purpose of which is to maintain
21 control of library materials, or to gain access to information, which
22 discloses or could be used to disclose the identity of a library user.

23 (m) Financial information supplied by or on behalf of a person,
24 firm, or corporation for the purpose of qualifying to submit a bid or
25 proposal for (i) a ferry system construction or repair contract as
26 required by RCW 47.60.680 through 47.60.750 or (ii) highway
27 construction or improvement as required by RCW 47.28.070.

28 (n) Railroad company contracts filed prior to July 28, 1991, with
29 the utilities and transportation commission under RCW 81.34.070, except
30 that the summaries of the contracts are open to public inspection and
31 copying as otherwise provided by this chapter.

32 (o) Financial and commercial information and records supplied by
33 private persons pertaining to export services provided pursuant to
34 chapter 43.163 RCW and chapter 53.31 RCW.

35 (p) Financial disclosures filed by private vocational schools under
36 chapter 28C.10 RCW.

37 (q) Records filed with the utilities and transportation commission
38 or attorney general under RCW 80.04.095 that a court has determined are
39 confidential under RCW 80.04.095.

1 (r) Financial and commercial information and records supplied by
2 businesses or individuals during application for loans or program
3 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
4 or during application for economic development loans or program
5 services provided by any local agency.

6 (s) Membership lists or lists of members or owners of interests of
7 units in timeshare projects, subdivisions, camping resorts,
8 condominiums, land developments, or common-interest communities
9 affiliated with such projects, regulated by the department of
10 licensing, in the files or possession of the department.

11 (t) All applications for public employment, including the names of
12 applicants, resumes, and other related materials submitted with respect
13 to an applicant.

14 (u) The residential addresses and residential telephone numbers of
15 employees or volunteers of a public agency which are held by the agency
16 in personnel records, employment or volunteer rosters, or mailing lists
17 of employees or volunteers.

18 (v) The residential addresses and residential telephone numbers of
19 the customers of a public utility contained in the records or lists
20 held by the public utility of which they are customers.

21 (w)(i) The federal social security number of individuals governed
22 under chapter 18.130 RCW maintained in the files of the department of
23 health, except this exemption does not apply to requests made directly
24 to the department from federal, state, and local agencies of
25 government, and national and state licensing, credentialing,
26 investigatory, disciplinary, and examination organizations; (ii) the
27 current residential address and current residential telephone number of
28 a health care provider governed under chapter 18.130 RCW maintained in
29 the files of the department, if the provider requests that this
30 information be withheld from public inspection and copying, and
31 provides to the department an accurate alternate or business address
32 and business telephone number. On or after January 1, 1995, the
33 current residential address and residential telephone number of a
34 health care provider governed under RCW 18.130.140 maintained in the
35 files of the department shall automatically be withheld from public
36 inspection and copying if the provider has provided the department with
37 an accurate alternative or business address and telephone number.

38 (x) Information obtained by the board of pharmacy as provided in
39 RCW 69.45.090.

1 (y) Information obtained by the board of pharmacy or the department
2 of health and its representatives as provided in RCW 69.41.044,
3 69.41.280, and 18.64.420.

4 (z) Financial information, business plans, examination reports, and
5 any information produced or obtained in evaluating or examining a
6 business and industrial development corporation organized or seeking
7 certification under chapter 31.24 RCW.

8 (aa) Financial and commercial information supplied to the state
9 investment board by any person when the information relates to the
10 investment of public trust or retirement funds and when disclosure
11 would result in loss to such funds or in private loss to the providers
12 of this information.

13 (bb) Financial and valuable trade information under RCW 51.36.120.

14 (cc) Client records maintained by an agency that is a domestic
15 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
16 crisis center as defined in RCW 70.125.030.

17 (dd) Information that identifies a person who, while an agency
18 employee: (i) Seeks advice, under an informal process established by
19 the employing agency, in order to ascertain his or her rights in
20 connection with a possible unfair practice under chapter 49.60 RCW
21 against the person; and (ii) requests his or her identity or any
22 identifying information not be disclosed.

23 (ee) Investigative records compiled by an employing agency
24 conducting a current investigation of a possible unfair practice under
25 chapter 49.60 RCW or of a possible violation of other federal, state,
26 or local laws prohibiting discrimination in employment.

27 (ff) Business related information protected from public inspection
28 and copying under RCW 15.86.110.

29 (gg) Financial, commercial, operations, and technical and research
30 information and data submitted to or obtained by the clean Washington
31 center in applications for, or delivery of, program services under
32 chapter 70.95H RCW.

33 (hh) Information and documents created specifically for, and
34 collected and maintained by a quality improvement committee pursuant to
35 RCW 43.70.510, regardless of which agency is in possession of the
36 information and documents.

37 (ii) Information submitted to an agency to assist in the
38 determination of the impact of a proposed rule or statute upon a
39 business.

1 (2) Except for information described in subsection (1)(c)(i) of
2 this section and confidential income data exempted from public
3 inspection pursuant to RCW 84.40.020, the exemptions of this section
4 are inapplicable to the extent that information, the disclosure of
5 which would violate personal privacy or vital governmental interests,
6 can be deleted from the specific records sought. No exemption may be
7 construed to permit the nondisclosure of statistical information not
8 descriptive of any readily identifiable person or persons.

9 (3) Inspection or copying of any specific records exempt under the
10 provisions of this section may be permitted if the superior court in
11 the county in which the record is maintained finds, after a hearing
12 with notice thereof to every person in interest and the agency, that
13 the exemption of such records is clearly unnecessary to protect any
14 individual's right of privacy or any vital governmental function.

15 (4) Agency responses refusing, in whole or in part, inspection of
16 any public record shall include a statement of the specific exemption
17 authorizing the withholding of the record (or part) and a brief
18 explanation of how the exemption applies to the record withheld.

19 NEW SECTION. **Sec. 10.** A new section is added to chapter 4.84 RCW
20 to read as follows:

21 If an agency chooses to appeal a decision of the superior court
22 rendered under chapter 34.05 RCW, the agency shall pay the subsequent
23 fees and other expenses incurred by the qualified party or parties that
24 prevailed in superior court. The amount awarded to a qualified party
25 in an appeal under this section may not exceed the amount that may be
26 awarded by a superior court to a qualified party under RCW 4.84.350.

27 NEW SECTION. **Sec. 11.** It is the intent of the legislature through
28 the enactment of section 7 of this act to clarify the filing procedures
29 in RCW 34.05.542. Section 7 of this act is curative in nature and
30 applies to all judicial proceedings pending on the effective date of
31 this act.

--- END ---